

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

THOMAS WARREN RAY,  
BK #11170,  
Plaintiff,

v.

DR. FAUST, *et al.*,  
Defendants.

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CIVIL ACTION NO. H-06-3110

OPINION ON DISMISSAL

Plaintiff, a state inmate incarcerated in the Galveston County, Texas Jail, has filed a civil rights complaint (Docket Entry No.1). Plaintiff has also filed an application to proceed *in forma pauperis*. (Docket Entry No.2). A prisoner, however, cannot file a civil action *in forma pauperis* in federal court if, on three or more prior occasions, while incarcerated, he brought an action that was dismissed for being frivolous, malicious, or failing to state a claim upon which relief may be granted. 28 U.S.C. § 1915(g). The only exception to revocation of an inmate's privilege to proceed *in forma pauperis* is if he is in immediate danger of serious physical harm. *Banos v. O'Guin*, 144 F.3d 883, 884 (5th Cir. 1998). Plaintiff's complaint does not show such danger.

Plaintiff's litigation history reveals that he falls within the provisions of section 1915(g). Plaintiff has filed numerous lawsuits in federal courts while incarcerated in prison or a detention facility. At least four of these lawsuits have been dismissed as either frivolous, malicious, or for failure to state a claim upon which relief may be granted. *See Ray v. Unidentified Federal Agents*, Civil Action No.G-05-449 (S.D. Tex. 2005), and the cases listed therein.

Accordingly, it is ORDERED that this complaint is DISMISSED under 28 U.S.C. § 1915(g).

All pending motions are further DENIED.

The Clerk will provide a copy of this Order to the parties.

Signed at Houston, Texas, this 7<sup>th</sup> day of November, 2006.

  
MELINDA HARMON  
UNITED STATES DISTRICT JUDGE